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**VIA E-MAIL & REGULAR MAIL**

Mr. Thomas J. Martin, Jr.  
Associate Regional Counsel  
U.S. EPA, Region V  
Office of Regional Counsel  
77 West Jackson Blvd. (C-14J)  
Chicago, IL 60604-3590

Re: Sauget Sites

Dear Mr. Martin:

This letter is in response to the letter dated 3/27/00 sent by Roberta Saielli at Gardner, Carton & Douglas to you concerning the consideration that U.S. EPA is giving to a removal action in Dead Creek in Sauget, Illinois. In that letter, Ms. Saielli alleges that the Village "has not been given an opportunity to fully participate in the process of selecting what appears to be a permanent remedial action." Contrary to these allegations, the activity being contemplated for the Dead Creek sediment is a "removal action" rather than a "remedial action," and the Village has had ample opportunity to participate in the decision making process.

The allegations Ms. Saielli makes regarding the nature of the cleanup action being considered are incorrect. In fact, the action being consider is a removal action, not a permanent remedial action. If the action is undertaken, it will be following a determination by U.S. EPA that there is an imminent and substantial endangerment presented by contaminants in the Creek. Those contaminants will be removed and placed on site in a permanent containment cell. If an imminent and substantial endangerment is found, only sediment will be removed. If additional remediation is determined to be necessary after completing the Engineering Evaluation/Cost Assessment and Remedial Investigation/Feasibility Study, then further activity in the creek may have to take place.

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Post removal sampling results may be used to determine what, if any, excavated areas may require further remediation under the Engineering Evaluation/Cost Assessment process. Thus, this action is not now permanent. The only permanent part is the disposal of the sediments in the cell. If the cell on site was not used, the sediment removed from the creek would have to be disposed of off site at a permanent containment cell. Thus, whether disposed of on site or off site, the final disposal of the sediments has to be permanent. But such disposal does not turn a time-critical removal action into a remedial action.

Ms. Saielli's comments concerning the opportunity of the Village to participate in the decision process are also inaccurate. On February 17, 2000, representatives of Solutia, including Joe Nassif, Brent Gilhousen, Mike Light, Robin Prokop (the Krummrich plant manager), and Alan Faust (the Krummrich plant director of environmental, health and safety), met with representatives of the Village including Mayor Paul Sauget, Rich Sauget, Dan Hayes (one of the attorneys for the Village of Sauget), the Village engineer, and Bernie Usursa (another one of the attorneys for the Village of Sauget). In that meeting, the mock-up photos representing what the containment cell would look like were presented, along with the drawings of the cell. The names of the engineering firms involved in the cell design were mentioned. Also, the work to remove the sediment from the creek was discussed. The Village had ample opportunity at that meeting to ask questions. The response of the Village at the end of the Solutia presentation was positive and lead Solutia to believe that the Village was in agreement with the removal activity being considered. It is possible no one told Ms. Saielli about this meeting.

On February 29, 2000, EPA held a public meeting at the Sauget Village Hall. Solutia told the Village at the February 17<sup>th</sup> meeting that there was to be such a meeting on the 29<sup>th</sup>. In addition, a public notice of the meeting and a Fact Sheet was circulated by EPA on or about February 22. (A copy of the Fact Sheet is attached.) This material was sent to everyone on the EPA mailing list which presumably includes the Village of Sauget. In addition the fact sheet was handed out at the Village Hall meeting on the 29<sup>nd</sup>. That fact sheet contained significant information on the cell including a picture of the cell. The fact sheet also asks for comments from the community. Finally the Fact Sheet announces that the EPA was planning to interview residents of Sauget and Cahokia to get their input on Area 1 issues. Those interviews have now taken place.

I personally spoke with Mr. Hayes, counsel for the Village, on either the day of the EPA meeting or the day before and reminded Mr. Hayes of the meeting. No one representing the Village attended, despite their knowledge of the location of the meeting. If the Village had bothered to attend it would have heard EPA present a fairly detailed discussion of the removal action that was being considered, it would have received another copy of the fact sheet, and it would have had an opportunity to ask questions.

On February 29<sup>th</sup>, at the request of Mr. Hayes, I sent additional information about the proposed containment cell to the Village. I have also told Mr. Hayes that information on the contamination in Dead Creek could be found in the public record that is located in the Cahokia library.

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In addition to all the above, Solutia has copied in the Village of Sauget on all the monthly reports that have been submitted to EPA since December of 1999. At the request of the Village the reports went to its engineer, P.H. Weis. These reports describe action taken under the AOC for the EE/CA and the RI/FS and action taken regarding Solutia's proposal for the Dead Creek sediment removal.

Despite all of the above, the Village of Sauget now asserts through another one of its attorneys that it is concerned that the Village has not had ample opportunity to participate in the process. It has now been three months since the Village meeting with Solutia took place where the Village was informed of the proposed action for Dead Creek. In addition, over 75 days have passed since the public meeting in Sauget and since the Fact Sheet was distributed. The Village has not submitted one comment or objection to the proposed activity in Dead Creek other than to complain of the lack of opportunity to participate in the process.

Yesterday, Solutia called Mr. Kissel of Gardner, Carton & Douglas to determine the current position of the Village on this matter. Based on Mr. Kiessel's return call, it appears that the Village has not shared information with its Chicago counsel. Mr. Kissel apparently was just recently informed of the February 17<sup>th</sup> meeting between the Village and Solutia. We also suspect that Mr. Kissel has not received a copy of the Fact Sheet or the monthly reports that Solutia has sent to the Village. In addition, Mr. Kissel appears to misunderstand the timing issues involved with regard to data. He accused Solutia of withholding sampling data on the creek even though the Village had asked for such information. In fact, at the time that the Village made a request for the data, the only data on the levels of contamination in the sediments that was available was from studies done by E&E in the 1980's. When asked for the data Solutia responded that the only available data was the E&E data in the administrative record. The first available data developed by Solutia, which had been validated as required in the AOC, was referenced in the April Monthly Report of which the Villages of Sauget and Cahokia were copied. The actual data was submitted to EPA with the April report. The Village of Sauget has recently been provided the data also.

Based on the facts set forth above, Ms. Saielli's letter misrepresents the type of remedy being considered and the opportunity to be involved in the decision making process that has been given to her client. It is clear that the Village has had more than ample opportunity to participate in this process.

Very truly yours,

Thompson Coburn LLP

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By  
Linda W. Tape

LWT/cn

cc: Mr. Brent Gilhousen  
Mr. Mike Light  
Mr. Joe Nassif